



HAGENS BERMAN

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July 18, 2022

VIA ECF

Honorable Valerie Figueredo
Magistrate Judge
United States District Court
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *In Re Amazon.com, Inc. eBook Antitrust Litigation*, 1:21-cv-00351 (“*eBooks*”);
Bookends & Beginnings LLC v. Amazon, et al., 1:21-cv-02584 (“*Bookends*”)

Dear Judge Figueredo:

Pursuant to paragraph 1(e) of the Court’s *Individual Rules of Practice in Civil Cases*, Plaintiffs write to request a modification of the scheduled hearing dates for the motions to dismiss in the above-captioned cases. The Court scheduled the two hearings on consecutive days—*Bookends* on July 27 and *eBooks* on July 28—in recognition that the same counsel represent the respective parties in both cases. Plaintiffs do not wish to delay proceedings or take up more time than the Court has already allotted for these proceedings. Plaintiffs merely request that the Court modify its orders to allow the *eBooks* hearing to take place first, on July 27, with *Bookends* to follow the next day, or in the alternative, if the Court’s schedule permits, to hold both arguments on July 27.

Previously, at the request of counsel for Amazon, the Court rescheduled the June 28 *Bookends* hearing to its current date. Amazon requested that accommodation because its lead counsel, John Schmidlein, was not available to argue on June 28. The Court rescheduled the hearing after confirming the availability of the parties’ counsel the week of July 25.

Plaintiffs face a similar predicament. Their lead counsel, Steve Berman, has an MDL hearing scheduled in Seattle on July 28. Plaintiffs would like to go forward with the hearings this month and have already planned that at least one of the two hearings will be covered by other Plaintiffs’ counsel, but they would like an accommodation to allow Mr.

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Berman to argue at the *eBooks* hearing. The *eBooks* case is closely tied to the previously litigated case against the Publisher Defendants for their participation in a conspiracy with Apple to raise eBooks prices. Mr. Berman was lead counsel for the consumer plaintiffs in that lawsuit, which led to subsequently filed complaints by the DOJ and state attorneys general and resulted collectively in over \$600 million in settlements.¹

Given the overlapping and intertwined arguments between the current *eBooks* case and the previously litigated case, Plaintiffs believe that it would be most efficient for Mr. Berman to argue their case. Indeed, many counsel for the Publisher Defendants were also counsel for their clients in the previous litigation. Plaintiffs believe that the Court would benefit most if both Plaintiffs' and Defendants' counsel with that experience were available to argue.

Plaintiffs have consulted with Defense Counsel, who do not object to Plaintiffs' request.

Sincerely,

HAGENS BERMAN SOBOL SHAPIRO LLP

/s/ Steve W. Berman

Steve W. Berman

*Interim Lead Counsel for EBooks Plaintiffs and
Counsel for Plaintiff Bookends & Beginnings*

SWB:bam

¹ *In re Electronic Books Antitrust Litig.*, 639 F. App'x 724, 726-27 (2d Cir. 2016).